

**RHODE ISLAND DEPARTMENT OF LABOR & TRAINING
DIVISION OF PROFESSIONAL REGULATION
BOARD OF SAFETY AWARENESS**

Wednesday, October 10, 2012

8:30 A.M.

In attendance: Eric Anderson

Timothy Byrne

Robin Coia

Wayne Coulombe

James Jackson

Joseph Sabitoni, Chair

Nicholas Giardino, Edgar Ladouceur and Bernard Trembl were not in attendance.

Also in attendance: Mark Ryan; Prevailing Wage Investigator; and Valentino Lombardi, Legal Counsel.

1. CALL TO ORDER: Meeting was called to order at 8:48am by Joseph Sabitoni. A quorum was present. All board members are present with the exception of Nicholas Giardino, Edgar Ladouceur and Bernard Trembl.

2. REVIEW & APPROVE MEETING MINUTES: Regarding the minutes of the August 16, 2012 meeting; Wayne Coulombe made a motion to the minutes as presented; seconded by Robin Coia and passed unanimously by the Board.

3. REVIEW OF AUGUST APPEAL DECISIONS: Upheld by the Director

4. HEARINGS:

1.) Continental Flooring (Violation 4336): Mark Ryan, Prevailing Wage Investigator, is sworn in for testimony. Mark Ryan presents the violation.

On August 2, 2012, Mr. Mark T. Ryan, Prevailing Wage Investigator, visited the public works site at the University of Rhode Island, Coddington and Dorr Hall Dormitory project, Butterfield Road, Kingston, RI 02881 and interviewed Lawrence Lowell, John Harry Laine, Derrick E. Gaulin and Chris Clarke of Continental Flooring Company and Robert W. McInerney, Seth McInerney, Robert McInerney and Ron McInerney of Robert McInerney Floor Coverings, Inc. These individuals were working on the project without OSHA-10 hour certification. This is a violation of RIGL 37-23-1 "Safety awareness program required.

Violation 4336 was issued on August 9, 2012 to Continental Flooring Co in the amount of \$4,000.00.

Gerald McMahon, of Continental Flooring, is sworn in for testimony. Mr. McMahon provides testimony. Evidence is submitted: Exhibit A – a copy of John Laine’s OSHA-10 Card; Exhibit B – Completion Certificate for Chris Clark’s OSHA 10 Hour training.

The Board questions Mark Ryan and Gerald McMahon.

Wayne Coulombe made a motion that Violation 4336; seconded by James Jackson and passed unanimously by the Board.

Robin Coia made a motion to uphold the \$4,000.00 fine due to the fact Continental Flooring is a national company and it is the responsibility of the contractor to ensure the statutes are upheld when they do business in RI. The motion was seconded by Eric Anderson. There is a discussion.

Wayne Coulombe request to amend the motion; that the fines of Laine and Clarke be suspended and the others would stand. There was not second on the amended motion. The amended motion fails.

Vote on the original motion to uphold the fine was unanimous.

The recommendation will be forwarded to the Director.

2.) Continental Flooring (Violation 4378): Parties were previously

sworn in for testimony. Mark Ryan presents the violation.

On August 2, 2012, Mr. Mark T. Ryan, Prevailing Wage Investigator, visited the public works site at the University of Rhode Island, Dorr Hall Dormitory project, Butterfield Road, Kingston, RI 02881 and interviewed Kevin Mancieri, Daniel Faurtado and Baudelio Rodriguez of Mancieri Flooring. These individuals were working on the project without OSHA-10 hour certification. This is a violation of RIGL 37-23-1 "Safety awareness program required.

Violation 4378 was issued on September 25, 2012 to Continental Flooring Co in the amount of \$1,500.00.

Mark Ryan provides testimony and is questioned.

Gerald McMahon provides testimony. Evidence is submitted: Exhibit A – Kevin Mancieri's OSHA 10 card; Exhibit B – Danny Furtado's Completion Certificate for OSHA 10 Hour training; Exhibit C – Baudelio Rodriguez's Completion Certificate for OSHA 10 Hour training.

Questioning continues.

Timothy Byrne made a motion regarding Violation 4378; based on testimony provided and the fact that RIGL 37-23-1 states individuals must carry card on their person at all times while performing the

work; a violation of RIGL 37-23-1 did in fact occurred. Seconded by James Jackson and passed unanimously by the Board.

Mr. McMahon addressed the Board.

Timothy Byrne made a motion that the fine of \$1,500.00 be upheld; seconded by Wayne Coulombe and passed unanimously by the Board.

The recommendation will be forwarded to the Director.

3.) Continental Flooring (Violation 4385): Parties were previously sworn in for testimony. Mark Ryan, Prevailing Wage Investigator, presents the violation.

On August 31, 2012, Mr. Mark T. Ryan, Prevailing Wage Investigator, visited the University of Rhode Island, Dorr Hall Dormitory project, Butterfield Road, Kingston, RI 02881 and interviewed Chester Hall and Susan Queen of A Call to Install. These individuals were working on the project without OSHA-10 hour certification. This is a violation of RIGL 37-23-1 "Safety awareness program required".

Violation 4385 was issued on September 25, 2012 to Continental Flooring Co in the amount of \$1,900.00.

Exhibit A: an email response from Don Guerra that cards from OSHAcampus.com are not recognized by the OSHA Department of Labor.

Board questions Mark Ryan and Gerald McMahon.

Exhibit B: copy of OSHAcampus.com issued to Chester Hall and Susan Queen.

Questioning continues. Entered as Exhibit C: copy of advertisement for OSHAcampus.com, the agency used for training.

Timothy Byrne made a motion pertaining to Violation 4385, violation of RIGL 37-23-1. Based on testimony presented, Chester Hall and Susan Queen did not produce an OSHA-10 certified card issued by the Department of Labor and the violation did, in fact, occur; seconded by James Jackson and passed unanimously by the Board.

Mr. McMahon addressed the Board.

James Jackson mad a motion to uphold the fine of \$1,900.00; seconded by Eric Anderson and passed unanimously by the Board.

The recommendation will be forwarded to the Director.

4.) John Harry Laine (Violation 4337): John Harry Laine does not appear. Gerald McMahon of Continental Flooring is present as a witness.

On August 2, 2012, Mr. Mark T. Ryan, Prevailing Wage Investigator, visited the public works site at the University of Rhode Island, Coddington Dormitory project, Butterfield Road, Kingston, RI 02881 and interviewed John Harry Laine of Continental Flooring Company. This individual was working on the project without OSHA-10 hour certification. This is a violation of RIGL 37-23-1 "Safety awareness program required".

On August 9, 2012, Violation 4337 was issued to John Harry Lane, 461 Eastcliff Dr, West Union, SC 29696 in the amount of \$250.00

Gerald McMahon addressed the board. Mr. McMahon presents a letter from John Harry Lane as Exhibit A. A copy of John Harry Laine's OSHA 10 card dated 3/22/12 is entered as Exhibit B. The Board questions Mr. McMahon.

James Jackson made a motion that Violation 4337 according to RIGL 37-23-1 a violation did occur on August 2, 2012; seconded by Timothy Byrne and passed unanimously by the Board.

Mr. McMahon addressed the Board.

In light of the fact that Mr. Laine does have an OSHA 10 hour card issued prior to the start of the project and that there may have been some confusion as to his employer and that he may not have been aware that he was to keep that card in his possession, Robin Coia made a motion to suspend the fine of \$250.00 for one year pending no violations for that time; seconded by Wayne Coulombe and passed unanimously by the Board.

The recommendation will be forwarded to the Director.

5.) Chris Clarke (Violation 4340): Chris Clark is not present. Parties previously sworn

On August 2, 2012, Mr. Mark T. Ryan, Prevailing Wage Investigator, visited the public works site at the University of Rhode Island, Door Hall Dormitory project, Butterfield Road, Kingston, RI 02881 and interviewed Chris Clarke of Continental Flooring Company. This individual was working on the project without OSHA-10 hour certification. This is a violation of RIGL 37-23-1 "Safety awareness program required.

On August 9, 2012 Violation 4340 was issued to Chris Clarke in the amount of \$250.00.

Gerald McMahon addressed the Board and presents a copy of Chris

Clark's Certificate of Completion of OSHA 10 hour training dated 6/4/12 which is entered as Exhibit A.

Wayne Coulombe made a motion that a violation did occur as at the time of the inspection Mr. Clarke did not produce an OSHA 10 hour card.; seconded by Robin Coia and passed unanimously by the Board.

Wayne Coulombe made a motion to suspend the \$250.00 fine for a period of one (1) year; seconded by Eric Anderson and passed unanimously by the Board.

The recommendation will be forwarded to the Director.

End of hearings.

****Mark Ryan informed the board that the meeting dates for November and December have changed. The new dates are November 14, 2012 and December 12, 2012.**

6. ADJOURNMENT: Eric Anderson made a motion to adjourn; seconded by James Jackson and passed unanimously by the Board. The meeting adjourned at 9:40am.